UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

MICHAEL A. CAMPBELL,)
Plaintiff,))
v.) Case No. CIV-13-926-R
OKLAHOMA BOARD OF CORRECTIONS et al.,)
Defendants.))

REPORT AND RECOMMENDATION

Plaintiff, Mr. Michael Campbell, a prisoner appearing pro se, has filed an application for leave to proceed *in forma pauperis* and supporting affidavit (Doc. No. 2). This matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B) and (C). Having reviewed said application, the undersigned finds that Mr. Campbell has a current balance of \$640.66 in his institutional account, which is sufficient to prepay the filing fee of \$400.00.

Because Mr. Campbell has not demonstrated an inability to pay the filing fee, the undersigned recommends that the Court:

- (1) deny the application for leave to proceed *in forma pauperis*;
- order Mr. Campbell to pay the full \$400.00 filing fee within 21 days of any order adopting this Report and Recommendation (*see* 28 U.S.C. § 1915(a)(1); LCvR 3.2; LCvR 3.3(e)); and

dismiss the action without prejudice to refiling if Mr. Campbell fails to timely pay the filing fee, or show good cause for the failure to do so, within 21 days of any order adopting this Report and Recommendation (see LCvR 3.3(e); see also Cosby v. Meadors, 351 F.3d 1324 (10th Cir. 2003) (upholding dismissal of a federal inmate's civil rights complaint based on noncompliance with orders requiring either payment of filing fee or a show of cause for failure to pay)).

NOTICE OF RIGHT TO OBJECT

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by October 11, 2013, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. Plaintiff is further advised that failure to timely object to this Report and Recommendation would waive the right to appellate review of both factual and legal issues contained herein. *See Moore v. United States*, 950 F. 2d 656, 659 (10th Cir. 1991).

This report and recommendation does not terminate the referral.

ENTERED this 20th day of September, 2013.

Charles B. GOODWIN
UNITED STATES MAGISTRATE JUDGE